

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

TAILORED BRANDS, INC., et al.,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-33900 (MI)

(Jointly Administered)

**Re: Docket Nos. 1094, 1163**

**SUPPLEMENTAL OBJECTION OF BENDERSON DEVELOPMENT COMPANY,  
REALTY INCOME CORPORATION, SITE CENTERS CORPORATION, AND  
TEACHER’S INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, TO  
PROPOSED CURE AMOUNTS AND ASSUMPTION AND ASSIGNMENT OF  
CERTAIN LEASES PURSUANT TO DEBTORS’ JOINT CHAPTER 11 PLAN OF  
REORGANIZATION**

Benderson Development Company, Realty Income Corporation, SITE Centers Corporation, and Teacher’s Insurance and Annuity Association of America (collectively, the “Landlords”), by and through their undersigned counsel, Kelley Drye & Warren LLP, hereby submit this supplemental objection (the “Supplemental Objection”) to the *Third Amended Joint Plan Supplement* (the “Plan Supplement”) [Docket No. 1163] filed by the above-captioned debtors (the “Debtors”) and the proposed cure amount and assumption and assignment of the Leases pursuant to the Plan Supplement. In support of this Supplemental Objection, the Landlords respectfully state as follows:

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<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <http://cases.primeclerk.com/TailoredBrands>. The location of the Debtors’ service address in these chapter 11 cases is: 6100 Stevenson Boulevard, Fremont, California 94538.

### **PRELIMINARY STATEMENT**

1. The Landlords do not object to the assumption and assignment of the Leases to a qualified operator per se, and fully support the Debtors reorganization that will provide for a healthier, go-forward company emerging from bankruptcy, but file this Supplemental Objection (i) to the Debtors' proposed cure amounts and (ii) to ensure that the Plan does not cut off the Debtors' obligations to cure all defaults under the Leases, including Adjustment Amounts (as defined below) which have not yet been billed or have not yet become due under the terms of the Leases.

### **BACKGROUND**

2. The Landlords are the owners, affiliates, or managing agents for the owners of properties (collectively, the "Leased Premises") where the Debtors lease non-residential real estate pursuant to written leases (each, a "Lease," and, collectively, the "Leases"). Most or all of the Leased Premises are located in shopping centers as that term is used in section 365(b)(3) of the Bankruptcy Code. *See In re Joshua Slocum, Ltd.*, 922 F.2d 1081 (3d Cir. 1990).

3. On August 2, 2020 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") with this Court. To date, the Debtors continue to manage their businesses as debtors and debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. On October 9, 2020, the Debtors filed the Plan pursuant to which the Debtors seek to assume and assign certain unexpired leases of non-residential real property, including the Leases. *See* Plan § V.A.

5. On October 27, 2020, the Debtors filed the *Notice of Filing of Plan Supplement* (the "Plan Supplement") [Docket No. 959]. The Debtors include the Leases on

Schedule G of the Plan Supplement as being assumed pursuant to the Plan. *See* Plan Supplement, Schedule G.

6. On November 6, 2020, the Landlords timely filed an objection to the Plan and Plan Supplement [Docket No. 1094] (the “Initial Cure Objection”) which challenged, among other things, the Debtors’ proposed cure amounts to assume the Leases.

7. On November 10, 2020, the Debtors filed the *Notice of Filing of Third Amended Plan Supplement* (the “Amended Plan Supplement”) [Docket No. 959], which identifies additional contracts and leases that Debtors intend to assume. The Debtors included the Leases on Schedule G of the Amended Plan Supplement as being assumed pursuant to the Plan. *See* Amended Plan Supplement, Schedule G. The Leases were originally designated as rejected leases on the Plan Supplement.

### **OBJECTION**

8. Landlords incorporate all arguments, including all arguments relating to the Plan, from the Initial Cure Objection as though fully set forth at length herein by this reference. The Landlords dispute the Debtors’ proposed cure amounts listed on Exhibit A attached hereto, in the column titled “Debtors Cure Amount”. The correct cure amounts for Landlords’ Leases are set forth on Exhibit A as attached hereto, in the column titled “Landlord Cure Amount,” which includes an estimate of attorneys’ fees incurred to date. Landlords reserve their right to amend the cure amounts to include additional fees and expenses which continue to accrue and any other obligations that arise and/or become known to Landlords prior to assumption of the Leases.

### **RESERVATION OF RIGHTS AND JOINDER**

9. The Landlords reserve the right to amend and/or supplement this Supplemental Objection by asserting any and all other claims, whether based on cure or otherwise,

or objections to assumption or Plan confirmation as may be appropriate at or before the confirmation hearing, including, without limitation, to add or supplement objections to the Debtors' proposed cure amounts, including any future or supplemental cure notices or amended plan supplements.

10. To the extent not inconsistent with this Supplemental Objection, the Landlords join in the objections of other landlords and contract counterparties to the Plan or to the Debtors' proposed assumption or assumption and assignment of leases.

### **CONCLUSION**

**WHEREFORE**, the Landlords respectfully request that the Court enter an order (i) denying confirmation of the Plan unless modified as set forth herein or within the Initial Cure Objection; and (ii) granting such other and further relief as the Court deems just and proper.

Dated: November 11, 2020

### **KELLEY DRYE & WARREN LLP**

By: /s/ Sean T. Wilson

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*Counsel to the Landlords*

**CERTIFICATE OF SERVICE**

I hereby certify that on this November 11, 2020, a copy of the foregoing Objection was served via CM/ECF on all parties registered to receive such notice in the above-captioned cases.

/s/ Sean T. Wilson  
Sean T. Wilson

**EXHIBIT A**

**Benderson Development Company**

<b>Store No.</b>	<b>Mall Name</b>	<b>Location</b>	<b>Landlord</b>	<b>Debtors Cure Amount</b>	<b>Landlord Cure Amount</b>
3348	University Town Center	Sarasota, FL	SIPOC TIC	\$14,761.09	\$24,949.50
5301	Walden Crossings	Cheetowaga, NY	570 DAB 29, LLC	\$7,681.94	\$11,871.45
5312	Victor Square	Victor, NY	Victor Square Retail, LLC	\$8,134.98	\$13,627.06
388	Pittsford Square	Rochester, NY	Buffalo-Pittsford SQ SQ Assoc LLC	\$7,890.60	\$24,577.39
5304	McKinley Plaza	Blasdell, NY	MPH Associates, LLC	\$5,970.61	\$24,544.17

**Realty Income Corp.**

<b>Store No.</b>	<b>Mall Name</b>	<b>Location</b>		<b>Debtors Cure Amount</b>	<b>Landlord Cure Amount</b>
2511	6355 E. Southern Avenue	Mesa, AZ	Realty Income Corp.	\$9,936.89	\$30,232.74
4305	4216 Coldwater Road	Ft. Wayne, IN	Realty Income Corp.	\$11,029.72	\$36,452.12

**SITE Centers Corp.**

<b>Store No.</b>	<b>Mall Name</b>	<b>Location</b>		<b>Debtors Cure Amount</b>	<b>Landlord Cure Amount</b>
4417	Lennox Town Center	Columbus, OH	Lennox Town Center Limited	\$35,263.40	\$36,158.40

**Teachers Insurance and Annuity Association of America**

<b>Store No.</b>	<b>Mall Name</b>	<b>Location</b>		<b>Debtors Cure Amount</b>	<b>Landlord Cure Amount</b>
68	Market Fair Princeton	Princeton, NJ	Teachers Insurance and Annuity Association of America	\$16,769.75	\$61,954.08
310	South Denver Market Place	Lone Tree, CO	Teachers Insurance and Annuity Association of America	\$8,840.60	\$10,127.60